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BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	NO. D-1985
)	
HARRY E. DE HAVEN, JR., M.D.)	L-14203
Certificate No. C-17637)	
)	
Respondent.)	

DECISION

The attached Proposed Decision of the Medical Quality Review Committee is hereby adopted by the Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective on the 19 day of January, 1979.

It is so ordered this 20 day of December, 1978.

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE


MICHAEL J. CARELLA
Secretary-Treasurer

BEFORE THE DIVISION OF MEDICAL QUALITY

BOARD OF MEDICAL QUALITY ASSURANCE

DEPARTMENT OF CONSUMER AFFAIRS

STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	
)	
HARRY E. DE HAVEN, JR., M.D.)	
12381 Nelson Street)	NO. D-1985
Garden Grove, California 92640)	
)	L-14203
Physician's and Surgeon's)	
Certificate No. C-17637,)	
)	
Respondent.)	

PROPOSED DECISION

This matter came on regularly for hearing before Panel Number 1 of the District 11 Medical Quality Review Committee, at Los Angeles, California, on June 12, 1978, at the hour of 9:00 o'clock a.m., and again on June 13, 1978, P. M. Hogan, Administrative Law Judge of the Office of Administrative Hearings presiding.

Panel members present were: Ludlow Creary, M.D., acting chairman, George Wong, M.D. and Sylvia Schulman, public member. Dora Levin, Deputy Attorney General, represented the complainant. Respondent appeared in person, and was represented by Michael S. Bernard, Attorney at Law. Evidence, both oral and documentary, was introduced, the matter argued and submitted, and the three members of the panel proceeded to consider the matter. The Administrative Law Judge was present during the panel's consideration of the case. The panel finds the following facts:

I

Joseph P. Cosentino, M.D., is the Acting Executive Director of the Board of Medical Quality Assurance (hereinafter referred to as "Board") and filed the Accusation herein solely in his official capacity, upon his information and belief.

II

On April 4, 1976, respondent Harry E. De Haven, Jr., M.D. (hereinafter "respondent"), was issued physician and surgeon's

certificate number C-17637 by the Board of Medical Examiners, the predecessor agency to the Board. Said certificate is now and was at all times mentioned herein in full force and effect.

III

Respondent prescribed drugs to the following named persons, on the dates and in the type and quantity set forth opposite the name of each:

<u>Date</u>	<u>Patient</u>	<u>Prescription Number</u>	<u>Medication</u>
4-26-76	[REDACTED]	010611	30 Tuinal, 3 gr.
4-26-76	[REDACTED]	010612	30 Benadryl, 25 mg.
4-26-76	[REDACTED]	010613 010613	30 Phenobarbital, 1/4 gr.
5-13-76	[REDACTED]	014874	14 Tuinal, 3 gr.
5-13-76	[REDACTED]	014876	28 Benadryl, 25 mg.
5-13-76	[REDACTED]	014877	28 Butisol, 1/2 gr.
5-13-76	[REDACTED]	014878	42 Elavil, 25 mg.
5-13-76	[REDACTED]	014879	28 Phenobarbital, 1/4 gr.
5-13-76	[REDACTED]	014880	14 Mellaril, 10 mg.
5-13-76	[REDACTED]	014881	14 Stelazine, 2 mg.
5-13-76	[REDACTED]	014882	14 Thorazine, 10 mg.
5-14-76	[REDACTED]	014985	42 Benadryl, 25 mg.
5-14-76	[REDACTED]	014986	56 Butabarbital, 1/4 gr.
5-14-76	[REDACTED]	014987	14 Elavil, 50 mg.
5-14-76	[REDACTED]	014988	10 Empirin with Codeine, 1 gr.

5-14-76	[REDACTED]	014989	42 Phenobarbital, 1/2 gr.
5-14-76	[REDACTED]	014991	42 Butisol, 1/2 gr.
5-14-76	[REDACTED]	014992	14 Stelazine, 1 mg.
5-14-76	[REDACTED]	014993	56 Valium, 10 mg.
5-14-76	[REDACTED]	014994	14 Donnatal
5-14-76	[REDACTED]	014995	16 Mellaril, 10 mg.
5-14-76	[REDACTED]		14 Tuinal, 200 mg.
5-26-78	[REDACTED]	017667	14 Tuinal, 3 gr.
5-26-76	[REDACTED]	017668	28 Diphenhydramine, 25 mg.
5-26-76	[REDACTED]	017669	56 Butabarbital, 1/4 gr.
5-26-76	[REDACTED]	017670	14 Elavil, 50 mg.
5-26-76	[REDACTED]	017671	28 Phenobarbital, 1/4 gr.
5-26-76	[REDACTED]	017672	28 Butisol, 1/2 gr.
5-26-76	[REDACTED]	017673	14 Mellaril, 10 mg.
5-26-76	[REDACTED]	017674	14 Stelazine, 1 mg.
5-26-76	[REDACTED]	017675	14 Thorazine
5-27-76	[REDACTED]	017770	14 Diphenhydramine, 25 mg.
5-27-76	[REDACTED]	017771	28 Butabarbital, 1/4 gr.
5-27-76	[REDACTED]	017772	14 Chloral Hydrate, 250 mg.
5-27-76	[REDACTED]	017773	14 Elavil, 25 mg.

5-27-76	[REDACTED]	017774	14 Phenobarbital, 1/4 gr.
5-27-76	[REDACTED]	017775	14 Butisol, 1/2 gr.
6-1-76	[REDACTED]	018296	28 Tuinal, 3 gr.
6-1-76	[REDACTED]	018297	42 Valium, 10 mg.
6-1-76	[REDACTED]	018299	3/4 pint Riopan
6-1-76	[REDACTED]	018300	14 Diphenhydramine, 50 mg.
6-1-76	[REDACTED]	018301	56 Butabarbital, 1/4 gr.
6-1-76	[REDACTED]	018302	14 Elavil, 50 mg.
6-1-76	[REDACTED]	018303	14 Phenobarbital, 1/2 gr.
6-1-76	[REDACTED]	018304	14 Butisol, 3/4 gr.
6-8-76	[REDACTED]	019763	14 Tuinal, 3 gr.
6-8-76	[REDACTED]	019764	28 Diphenhydramine, 25 mg.
6-8-76	[REDACTED]	019765	56 Butabarbital, 1/4 gr.
6-8-76	[REDACTED]	019766	28 Phenobarbital, 1/4 gr.
6-8-76	[REDACTED]	019767	14 Chlorpromazine, 10 mg.
6-8-76	[REDACTED]	019768	28 Butisol, 1/2 gr.
6-8-76	[REDACTED]	019769	14 Mellaril, 10 mg.
6-8-76	[REDACTED]	019770	14 Stelazine, 1 mg.
6-8-76	[REDACTED]	019837	14 Diphenhydramine, 25 mg.
6-8-76	[REDACTED]	019838	14 Butisol, 1/4 gr.

6-8-76	[REDACTED]	019839	14 Chloral Hydrate, 25 mg.
6-8-76	[REDACTED]	019840	14 Elavil, 25 mg.
6-8-76	[REDACTED]	019841	14 Phenobarbital, 1/4 gr.
6-8-76	[REDACTED]	019842	14 Butabarbital, 1/2 gr.

A. Each of the medications set forth above are dangerous drugs within the meaning of Section 4211(k) of the Business and Professions Code in that none may be lawfully dispensed without a prescription.

B. In prescribing the medicines to the persons as set forth above, respondent did so without a good faith prior examination and medical indication therefor. He failed to take adequate histories, neglecting to inquire as to his patients' prior drug usage or current medication. He prescribed depressants to persons suffering from depression and prescribed mood elevators and depressants simultaneously.

IV

In prescribing the medicines given to his patient Linda Lester on May 14, 1976, as described in Finding III hereinabove, respondent prescribed clearly excessive amounts of drugs in that respondent knew, or should have known such prescription would put said patient at risk of suicide.

V

Additional evidence was offered to prove the following:

A. The character of respondent's medical practice which has brought him to official attention is the product of a so-called experiment conducted entirely by respondent under the tutelage of Donald W. Schaeffer, M.D. Dr. Schaeffer is an associate clinical professor of psychiatry at the University of California Irvine Medical Center of Orange, California.

B. The relationship between respondent and Dr. Schaeffer began in 1972 when respondent, a former urologist, took his psychiatric residency training under Dr. Schaeffer's supervision at the Long Beach Veterans Hospital. Not only was Dr. Schaeffer respondent's supervisor, he later became respondent's treating psychiatrist for a condition characterized by Dr. Schaeffer as "over activity". Dr. Schaeffer also regards himself as respondent's friend.

C. Respondent became very dependent upon Dr. Schaeffer and consulted with him continually concerning problems arising in respondent's practice. Respondent operated a solo psychiatric practice in the Compton area from 1975, treating local residents and receiving compensation from Medi-Cal. At Dr. Schaeffer's suggestion, respondent engaged in a mode of treatment referred to as "polypharmacy." This polypharmacy consisted of accepting patients with drug-usage problems as they were, prescribing multiple drugs of their usage for them in small supplies, and concurrently affording them psychotherapy. The object of all this was to achieve psychiatric transference, then to substitute other, more harmless drugs, and ultimately to eliminate the patient's dependence upon drugs.

D. Although respondent's practice was conducted under the supervision of Dr. Schaeffer, there were no internal controls on this admittedly experimental practice, it was not conducted under the auspices of any teaching institution, and the patients thus treated were not informed of the experimental nature of respondent's practice.

VI

The following evidence in mitigation was considered by the panel in the light of the Board's disciplinary guidelines;

A. On March 26, 1976, respondent made full disclosure to the Board of the nature of his practice, and requested guidance and advice. Respondent never received any answer from the Board to his letter.

B. The standards for physical examination of psychiatric patients are vague; practice among psychiatrists as to such physical examination varies.

C. There is no evidence that respondent has used dangerous drugs, or has engaged in the practice of selling such drugs, or of selling prescriptions for them for his own profit. Nor is there any evidence that respondent has submitted false claims for treatment not rendered.

D. Respondent has been a medical doctor since 1951, and has been licensed to practice in California since 1956. There is no record of any disciplinary action or civil claims or judgments against him.

* * * * *

Pursuant to the foregoing findings of fact, Panel No. 1 of the District 11 Medical Review Committee makes the following determination of issues:

Respondent's physician's and surgeon's certificate is subject to suspension or revocation pursuant to Sections 2360 and

2361 of the Business and Professions Code (hereinafter referred to as "Code") for his unprofessional conduct within the meaning of Section 2399.5 of the Code by reason of the facts set forth in Finding III hereinabove, and for his unprofessional conduct within the meaning of Section 2361.5 of the Code, by reason of the facts set forth in Finding IV hereinabove.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Certificate number C-17637 issued to respondent Harry E. DeHaven, Jr., M.D., is revoked pursuant to each ground of discipline set forth in the determination of issues, separately and for all of them; provided, however, that upon satisfaction of conditions 1, 2, and 3 hereinbelow, revocation shall be stayed and respondent placed on probation for five years. The period of probation shall not begin and respondent's certificate shall remain revoked until conditions 1, 2 and 3, and each of them, have been fulfilled.

1. Respondent must surrender for cancellation his drug enforcement administration permit together with any triplicate prescription forms and federal order forms to the Drug Enforcement Administration and must provide documentary proof of that surrender no later than the effective date of this decision.

2. Within thirty (30) days of the effective date of this decision, respondent must submit to the Division for its prior approval the name and qualifications of a psychiatrist of his choice. Within sixty (60) days of the effective date of this decision, respondent must undergo psychiatric examination by the approved psychiatrist who shall furnish a report to the Division determining whether respondent requires psychiatric treatment to practice medicine safely. Respondent must undergo treatment if so recommended. During the period of psychiatric treatment, the respondent must have the approved psychiatrist furnish semi-annual progress reports to the Division.

3. The respondent is prohibited from engaging in solo practice. Within thirty days of the effective date of this decision, respondent must submit to the Division, and receive its prior approval, for a plan of practice limited to a supervised, structured environment in which respondent's activities will be overseen and supervised by another physician.

4. Respondent must obey all federal, state and local laws, and all rules governing the practice of medicine in California.

5. Respondent must submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

6. Respondent must comply with the Division's Probation Surveillance program.

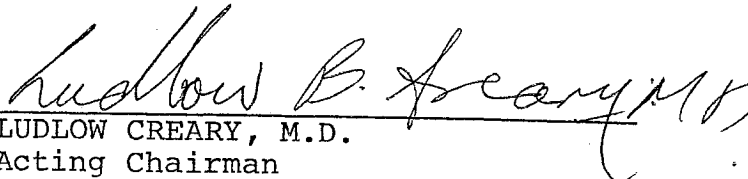
7. Respondent must appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

8. In the event respondent should leave California to reside or to practice outside the State, the respondent must notify the Division of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.

9. If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may move to set aside the stay order and impose the revocation of the respondent's certificate.

10. Upon successful completion of probation, the respondent's certificate will be fully restored.

DISTRICT 11 MEDICAL QUALITY
REVIEW PANEL #1


LUDLOW CREARY, M.D.
Acting Chairman

DATED:

9/25/78

PMH:mh

Redacted

EVELLE J. YOUNGER, Attorney General
of the State of California
DORA LEVIN, Deputy Attorney General
3580 Wilshire Boulevard, Suite 800
Los Angeles, California 90010
Telephone: (213) 736-2004

Attorneys for Complainant

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

NO. D-1985

HARRY E. DE HAVEN, JR., M.D.
12381 Nelson Street
Garden Grove, California 92640

ACCUSATION

Physician's and Surgeon's
Certificate No. C-17637,

Respondent.

Complainant alleges that:

1. Complainant, Joseph P. Cosentino, M.D., is the
Acting Executive Director of the Board of Medical Quality
Assurance (hereinafter referred to as "Board") and makes this
Accusation solely in his official capacity.

2. On or about April 4, 1956, respondent Harry E.
De Haven, Jr., M.D. (hereinafter "respondent"), was issued
Physician's and Surgeon's Certificate No. C-17637 by the Board
of Medical Examiners, the predecessor agency to the Board. Said
certificate is now and was at all times mentioned herein in full
force and effect.

3. Pursuant to the provisions of sections 2360 and 2361

1 of the Business and Professions Code, the Division of Medical
2 Quality of the Board may discipline any certificate holder who
3 has committed any of the acts or omissions constituting grounds
4 for disciplinary action.

5 4. Respondent is subject to discipline pursuant to the
6 provisions of section 2399.5 of the Business and Professions Code,
7 in that respondent has prescribed dangerous drugs as defined in
8 section 4211 of the Business and Professions Code, without a good
9 faith prior examination and medical indication therefor, as more
10 particularly alleged hereinafter:

11	A.	<u>Date</u>	<u>Patient</u>	<u>Prescription Number</u>	<u>Medication</u>
12		4-26-76	[REDACTED]	010611	30 Tuinal, 3 gr.
13			[REDACTED]		
14		4-26-76	[REDACTED]	010612	30 Benadryl, 25 mg.
15			[REDACTED]		
16		4-26-76	[REDACTED]	010613	30 Phenobarbital, 1/4 gr.
17		5-13-76	[REDACTED]	014874	14 Tuinal, 3 gr.
18		5-13-76	[REDACTED]	014876	28 Benadryl, 25 mg.
19			[REDACTED]		
20		5-13-76	[REDACTED]	014877	28 Butisol, 1/2 gr.
21			[REDACTED]		
22		5-13-76	[REDACTED]	014878	42 Elavil, 25 mg.
23		5-13-76	[REDACTED]	014879	28 Phenobarbital, 1/4 gr.
24		5-13-76	[REDACTED]	014880	14 Mellaril, 10 mg.
25			[REDACTED]		
26		5-13-76	[REDACTED]	014881	14 Stelazine, 2 mg.
27		5-13-76	[REDACTED]	014882	14 Thorazine, 10 mg.
28			[REDACTED]		
29		5-14-76	[REDACTED]	014985	42 Benadryl, 25 mg.
30		5-14-76	[REDACTED]	014986	56 Butabarbital, 1/4 gr.
31					

1	5-14-76	[REDACTED]	014987	14 Elavil, 50 mg.
2	5-14-76	[REDACTED]	014988	10 Empirin with Codeine, 1 gr.
3	5-14-76	[REDACTED]	014989	42 Phenobarbital, 1/2 gr.
4	5-14-76	[REDACTED]	014991	42 Butisol, 1/2 gr.
5	5-14-76	[REDACTED]	014992	14 Stelazine, 1 mg.
6	5-14-76	[REDACTED]	014993	56 Valium, 10 mg.
7	5-14-76	[REDACTED]	014994	14 Donnatal
8	5-14-76	[REDACTED]	014995	16 Mellaril, 10 mg.
9	5-14-76	[REDACTED]		14 Tuinal, 200 mg.
10	5-14-76	[REDACTED]		14 Tuinal, 3 gr.
11	5-26-76	[REDACTED]	017667	28 Diphenhydramine, 25 mg.
12	5-26-76	[REDACTED]	017668	56 Butabarbital, 1/4 gr.
13	5-26-76	[REDACTED]	017670	14 Elavil, 50 mg.
14	5-26-76	[REDACTED]	017671	28 Phenobarbital, 1/4 gr.
15	5-26-76	[REDACTED]	017672	28 Butisol, 1/2 gr.
16	5-26-76	[REDACTED]	017673	14 Mellaril, 10 mg.
17	5-26-76	[REDACTED]	017674	14 Stelazine, 1 mg.
18	5-26-76	[REDACTED]	017675	14 Thorazine
19	5-27-76	[REDACTED]	017770	14 Diphenhydramine, 25 mg.
20	5-27-76	[REDACTED]	017771	28 Butabarbital, 1/4 gr.
21	5-27-76	[REDACTED]	017772	14 Chloral Hydrate, 250 mg.
22	5-27-76	[REDACTED]	017773	14 Elavil, 25 mg.
23	5-27-76	[REDACTED]	017774	14 Phenobarbital, 1/4 gr.
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1	5-27-76	[REDACTED]	017775	14 Butisol, 1/2 gr.
2	6-1-76	[REDACTED]	018296	28 Tuinal, 3 gr.
3	6-1-76	[REDACTED]	018297	42 Valium, 10 mg.
4	6-1-76	[REDACTED]	018299	3/4 pint Riopan
5	6-1-76	[REDACTED]	018300	14 Diphenhydramine, 50 mg.
6	6-1-76	[REDACTED]	018301	56 Butabarbital, 1/2 gr.
7	6-1-76	[REDACTED]	018302	14 Elavil, 50 mg.
8	6-1-76	[REDACTED]	018303	14 Phenobarbital, 1/2 gr.
9	6-1-76	[REDACTED]	018304	14 Butisol, 3/4 gr.
10	6-8-76	[REDACTED]	019763	14 Tuinal, 3 gr.
11	6-8-76	[REDACTED]	019764	28 Diphenhydramine, 25 mg.
12	6-8-76	[REDACTED]	019765	56 Butabarbital, 1/4 gr.
13	6-8-76	[REDACTED]	019766	28 Phenobarbital, 1/4 gr.
14	6-8-76	[REDACTED]	019767	14 Chlorpromazine, 10 mg.
15	6-8-76	[REDACTED]	019768	28 Butisol, 1/2 gr.
16	6-8-76	[REDACTED]	019769	14 Mellaril, 10 mg.
17	6-8-76	[REDACTED]	019770	14 Stelazine, 1 mg.
18	6-8-76	[REDACTED]	019837	14 Diphenhydramine, 25 mg.
19	6-8-76	[REDACTED]	019838	14 Butisol, 1/4 gr.
20	6-8-76	[REDACTED]	019839	14 Chloral Hydrate, 25 mg.
21	6-8-76	[REDACTED]	019840	14 Elavil, 25 mg.
22	6-8-76	[REDACTED]	019841	14 Phenobarbital, 1/4 gr.
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6-8-76

019842

14 Butabarbital,
1/2 gr.

B. All the medications listed in subparagraph A, above, are dangerous drugs, as defined in section 4211(k) of the Business and Professions Code.

5. Respondent is further subject to discipline pursuant to the provisions of section 2361.5 of the Business and Professions Code, in that respondent has prescribed clearly excessive amounts of drugs in the instances alleged in paragraph 4 A, above.

WHEREFORE, complainant requests that a hearing be held on the matters alleged herein and that following said hearing the Division of Medical Quality issue a decision suspending or revoking respondent's license; and taking such other action as the Division deems proper.

DATED: April 12, 1977.

Joseph P. CoSENTINO
JOSEPH P. COSENTINO, M.D.
Acting Executive Director
Board of Medical Quality Assurance
State of California

Complainant

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